

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, October 6, 2014
Kitty Hawk Town Hall, 6:00 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Presentations/Recognitions:
 - Public Works Technician Lavelle Jenkins, 15 Years of Service
 - Fire Department Honors and Awards
5. Public Comment
6. Consent Agenda
 - a.) Approval of September 2, 2014 Council Minutes
 - b.) Revenues and Expenses Report for August 2014
 - c.) Resolution Supporting the Requested Changes to the SPOT 4.0 Process
 - d.) FY 14-15 Inter-Local Agreement with Dare County for Solid Waste Collection
 - e.) FY 14-15 Budget Amendment #2
7. Items Removed from the Consent Agenda
8. Public Hearing
 - a.) Text Amendment: Application to amend Subsections 42-6(c) and 42-514(c)(2) of the Kitty Hawk Town Code to clarify that off-site sewage treatment systems are allowed, subject to approval by applicable State agencies and/or the Dare County Environmental Health Department.
9. Planning
 - a.) Site Plan Review: Barrier Island Station Sales & Recreation Center
 - b.) Site Plan Review: Barrier Island Station Fitness Center
 - c.) Call for Public Hearing/Text Amendment: Application to amend Subsection 14-90(6)a
 - d.) Call for Public Hearing/Text Amendment: Application to amend Chapter 40, Article III
 - e.) Call for Public Hearing/Text Amendment: Application to amend Subsection 42-419(3)
10. New Business
 - a.) Possible Revision of Municipal Service District Map
11. Reports or General Comments from Town Manager
 - a.) Compliment to the Police Department
 - b.) Storm Damage Reduction Update
12. Reports or General Comments from Town Attorney
13. Reports or General Comments from Town Council
14. Public Comment
15. Adjourn

Kitty Hawk Town Council Minutes: October 6, 2014

Page 2

COUNCIL MEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Ervin Bateman, Councilman Craig Garriss, Councilwoman Emilie Klutz and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager John Stockton, Town Clerk Lynn Morris, Town Attorney Steve Michael, Finance Officer Charlene Allen, Management Assistant Melody Clopton, Police Chief Joel Johnson, Fire Chief Lowell Spivey, and Joe Heard, Planning Consultant

1. CALL TO ORDER

Mayor Perry called the meeting to order at 6:00 p.m. and welcomed everyone in attendance.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

Following a moment of silence the Pledge of Allegiance was recited.

3. APPROVAL OF AGENDA

Mayor Perry added 9 (b) to the agenda, a site plan review for Barrier Island Station Fitness Center. **MPT Bateman approved the agenda as amended and Councilwoman Klutz seconded. The motion passed unanimously, 5-0.**

4. PRESENTATIONS/RECOGNITIONS

- **Public Works Technician Lavelle Jenkins, 15 Years of Service** – In the absence of Public Works Director Willie Midgett, Town Manager Stockton presented Mr. Jenkins his plaque for 15 years of dedicated service to the town.
- **Fire Department Honors and Awards**

Fire Chief Lowell Spivey bestowed a Unit Citation to Fire Fighter Engineer Jesse McNeill for actions taken during the sound water rescue on August 6, 2014 which resulted in the recovery of a jumper who committed suicide. For this same event Captain Cole Yeatts (not in attendance) was awarded a Meritorious Conduct Award.

Fire Chief Spivey also bestowed a Unit Citation to Fire Fighters Jeremy Wilkins, Jasper Rogers, David McCulloch and Jesse McNeill for actions taken in Camden County on May 31, 2014. While traveling to Elizabeth City for training they came upon an upside down vehicle in a canal and got the driver out.

5. PUBLIC COMMENT

1.) Gwen White, Executive Director and Ron Curtis, Board Member of the VIP Fishing Tournament – Ms. White announced the upcoming 32nd Annual NC Lions Visually Impaired Persons Fishing Tournament on October 20-22 to be held on some of the local fishing piers.

6. CONSENT AGENDA

a.) Approval of September 2, 2014 Council Minutes. *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) Revenues and Expenses Report for August 2014. *(An affirmative vote for the consent agenda will acknowledge this report.)*

c.) Resolution Supporting the Requested Changes to the SPOT 4.0 Process. This resolution requests that the Strategic Prioritization Office of Transportation (SPOT) consider the following in scoring: 1) seasonal traffic volumes; 2) evacuations; 3) economic competitiveness; and, 4) geographic size, number of road miles and seasonal population in each MPO and RPO. It also requests a representative from the Albemarle RPO be added to the SPOT workgroup. *(An affirmative vote for the consent agenda will adopt this resolution.)*

d.) Fiscal Year 14-15 Inter-Local Agreement with Dare County for Solid Waste Collection Services - This agreement provides for the following: Twice a week residential collection from Labor Day through Memorial Day. On the beach side of the by-pass only a third pick up per week from Memorial Day through Labor Day. Residential collection services will be \$119.91/hour (\$110.65 last year). Commercial collection services will be \$100.30/hour (\$92.87 last year). Large item collection twice annually at the rate of \$250.00 per hour. These sums shall remain in effect until June 30, 2015. *(An affirmative vote for the Consent Agenda will approve this Inter-Local Agreement.)*

e.) FY 14-15 Budget Amendment #2 – This amendment, in the amount of \$33,000.00, will recognize and appropriate additional funding for solid waste collection and disposal. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

Councilwoman Klutz made a motion to approve the consent agenda. Councilman Garriss seconded the motion and it passed unanimously, 5-0.

7. ITEMS REMOVED FROM THE CONSENT AGENDA

There were no items removed from the consent agenda.

8. PUBLIC HEARING

a.) Text Amendment: Application to amend Subsections 42-6(c) and 42-514(c)(2) of the Kitty Hawk Town Code to clarify that off-site sewage treatment systems are allowed, subject to approval by applicable State agencies and/or the Dare County Environmental Health Department.

Perry: *This is a slight change from the original call for public hearing because we were talking septic systems and now we are getting into septic and treatment systems. We are holding this hearing to kind of get the town out of the whole business so do I hear a motion to go into public hearing?*

Councilman Pruitt made a motion to go into public hearing. MPT Bateman seconded the motion and it passed unanimously, 5-0.

Heard: *The intent of this ordinance is to clarify that the town does not want to be in the business of regulating the location of septic systems. The town will permit, when approved by the health department, off-premise locations for septic or sewage treatment systems and they will not dictate where on a lot that type of system can go as long as it meets the standards of the health department.*

The planning board reviewed this at their meeting on September 11th and made a revision to what they had previously recommended to council. The revision was done in time to advertise with the current wording that you see before you this evening. What it is showing are changes to subsection 42-6(c) and 42-515(c)(2). I also want to point out Councilwoman Klutz noted a minor correction that needed to be made under the 42-6(c). I mentioned the specific standards and unfortunately in what I drafted it has subsection (c)2(b) and it should read subsection (c)2(a). I will ask council to consider making that amendment as part of your motion to clarify the correct subsection.

Perry: *Don't treatment systems have a state impact too?*

Heard: *Depending on the type of system, particularly some of the larger systems, they do get run through the state health department as part of the review process and that is why we are using the term sewage treatment system which is the broader, more encompassing, term.*

No one came forward to speak during the public hearing.

Councilman Garriss made a motion to go back into regular session. The motion was seconded by MPT Bateman and it passed unanimously, 5-0.

Councilwoman Klutz made a motion to adopt the proposed text amendment to subsections 42-6(c) and 42-514(c)(2) with the amendment correcting the reference cited in subsection 42-6(c) clarifying that off-site sewage treatment systems are allowed subject to approval by the Dare County Environmental Health Department and State Health Department when applicable. Town council finds that the proposed text amendment is consistent with the town's adopted CAMA Land Use Plan and finds this amendment to be in the public interest by clarifying standards in providing greater flexibility for property owners installing sewage treatment systems in the Town of Kitty Hawk. Councilman Garriss provided a second and it passed unanimously, 5-0. (Ordinance No. 14-9)

9. PLANNING

a.) Site Plan Review: Barrier Island Station Sales & Recreation Center - Application for site plan approval to construct several additions as part of a comprehensive renovation of the existing sales/management office and recreation center building in the Planned Commercial Development (PCD) section of the Barrier Island Station resort. With the proposed additions, the building will be 30,308 square feet in size, including 16,757 square feet of space in the sales and management portion of the building and 13,551 square feet of space in the recreation portion of the building. The proposed improvements also include several other site amenities such as sidewalks, wooden decks at the rear of the building, and a small pier and tower structure over the pond.

Mayor Perry announced he thought the new owner's representative would like to speak to the council and public.

Ken Taylor: *I appreciate you having us here tonight. We are very, very excited about this project. I am the project director from Gold Key Resorts. We are the largest timeshare developer in the mid-Atlantic, ranked in the top 20 nationwide, and we have found a gem in Barrier Island Station. We are excited to be a part of Kitty Hawk and what this development is going to have. We are going to spend a ton of money, be great citizens and great neighbors, and we are really glad to be here.*

Perry: *Thank you. I have looked at some of what you have proposed and we are glad to have you here.*

Heard: *The company is looking at making some significant improvements and I would like to share a few of the initial ones that are proposed this evening. Both of these projects involve existing buildings that will be undergoing wholesale renovations. The first one are the changes to the Sales Office/Recreation Center. This is the first building on the right as you wind your way back behind Wal-Mart before you get to the gate. The overview of the floor plan shows some of the intended features in the recreation area of the center. The second document shows a floor plan of the building and all of the area that is in white, not highlighted in any way, is all existing building. The darker shaded areas are where there is going to be additions.*

Kitty Hawk Town Council Minutes: October 6, 2014

Page 6

One addition is by the entrance and then over near the entrance area to the sales and management office is another addition. The other ones you see are just smaller pockets, filling in of some smaller areas that already exist. Creating additional space in a few other areas.

They are two different buildings but they are attached and we are dealing with them as one application. The office area when this is done will be 16,757 square feet. The recreation portion 13,551 square feet for a total size of the building at 30,308 square feet. Other improvements related to this project include some site amenities such as sidewalk additions, wooden decks at the rear of the building, as well as a small pier and tower structure that will be built over the adjoining pond.

You have in your staff report a variety of things that were looked at and I want to specifically touch on a few where there seem to be significant changes or at least issues I feel need public clarification. I will begin with parking. As you can see adjoining the building, wrapping around it almost in a "u" shape, is a parking area. There are basically two rows of parking with a drive isle in between and then on the left side there is another parking area across the street that is connected by a walkway. Those are the areas where parking is provided.

According to calculations there is a minimum of 138 parking spaces required to serve this project and there are presently 147 parking spaces so there is enough parking. An important point is these calculations are based on an assumption that two-thirds of the customers who go to the recreational facilities will be arriving by bicycle or on foot. That statement does not include the sales and management. Those offices are separate. The recreational facilities are going to be only for the guests at the resort so the assumption was made, and this was an assumption that was made in 1993 when this project was first approved, that two-thirds of the people using them will either be walking or biking from within the resort.

I also want to point out they have 5 ADA accessible spaces located on the site that meets the minimum requirement for the site based on the number of parking spaces. The applicant is proposing to add a 6th ADA space in front of the entrance to the recreation center.

On the site plan there is a triangle portion of a gravel area that is used for overflow parking. It not only encroaches into the 15' buffer required but it actually encroaches completely over the property line that runs onto the adjoining property. It is still Barrier Island Station property but that is the side zoned Planned Unit Development, the residential side. This is something that was not approved with the initial site plan so it is not compliant with the current standards the town has nor is it compliant with the approved plan for the original development. Staff and planning board have recommended that the applicant needs to either remove those spaces or find another proposal to bring it into compliance.

You may note in your packets there is a text amendment being requested for public hearing at your next meeting in November. The applicant has made a request that would relieve them of some of the buffer requirements between the properties. If council is amenable and approves the

Kitty Hawk Town Council Minutes: October 6, 2014

Page 7

text amendment then this parking area would be brought into compliance. That is the applicant's response, if you will. They have proposed that to see if council is willing and if it is passed in November, or whenever you consider it, then it would relieve that violation.

The other thing I want to point out as we move on to the next item involves buffers in the PCD district. For the commercial part of this property there is a buffer requirement of 15' even where it adjoins the adjacent PUD district. So even though they function as a single development there is actually a physical property line located there. Again, we have a deck that was not approved as part of the original approval and it exists today. You can see it encroaches in this corner into that 15'. Now this deck does not go over the property line but it does encroach into the 15' area as well. That is another item that would be addressed if council chooses to approve the amendment proposed at your next meeting.

That summarizes the things I want to highlight. At their meeting on September 25th the planning board reviewed this application and voted unanimously to recommend approval of the site plan with a list of recommended conditions. Also, the engineer for the applicant has submitted information that addresses a number of the proposed conditions.

As far as a motion I want to read the remaining conditions that have not been addressed at this point. First the unapproved deck and parking improvements that encroach into the required buffer area must be removed or otherwise brought into compliance with the PCD buffer standards. Second, documentation must be provided that the proposed improvements are in compliance with the state stormwater permit prior to the issuance of a building permit. Third, a lighting plan, including any changes to the existing exterior lighting, must be approved by the Planning and Inspections Department prior to the issuance of a building permit. And fourth, an as-built survey for the subject property heights, certification for the building and an elevation certificate for the building must be submitted and approved prior to the issuance of a final certificate of occupancy. Mr. Calfee, who has been representing the applicant, will have a comment regarding the second of those items.

Klutz: *The fact that there was some overflow parking added. Does that demonstrate an assumption about two-thirds of the people coming on foot or bicycle isn't working?*

Heard: *That is a good question. I do not know the answer as to why or how often that area is used or how necessary it is. Mr. Calfee may be able to help.*

Perry: *My questions were going along those same lines. I remember not that many years ago every time I went to Wal-Mart I was asked by somebody to buy a fitness membership to Barrier Island. I don't think I understood that there was an assumption bicyclers and walkers would be coming from the timeshares so either that extra parking lot was put there to accommodate people that were literally driving in to use this membership or something else.*

Kitty Hawk Town Council Minutes: October 6, 2014

Page 8

Heard: *At the planning board meeting that very issue was brought up and the applicants have stated that whereas in the past they allowed members from outside who were not guests of the resort to use those fitness facilities that is no longer going to be the case. They will be solely for the guests of the resort.*

Ralph Calfee: *Good evening. For the record my name is Ralph Calfee representing the applicant. The gravel parking area was originally paved by the person who did the original development because it was a space where parking could be put. It was used as employee parking because it was handy for them to park there and was not done because of any need or perceived need. In fact in all the years I worked on this project I never saw the parking lot full, even back in the early days when things were really booming. It was not put in because of a need for parking it was put in for convenience. After it was paved someone pointed out they really shouldn't have done that and it was switched to gravel.*

As Joe said we do not count those spaces and we have made application that will make some of that, if you approve a zoning amendment, parking area allowable or useable. The conditions that are before you says that the parking area and deck that encroaches into a setback have to be fixed or we find another solution. If we don't find another solution then they get fixed. Period. And we are fully in agreement with that.

The second condition that Joe was talking about is stormwater permits. We know that your normal approval for a site plan where one is still in the process of getting stormwater permits would be you cannot acquire a building permit prior to obtaining a stormwater permit. I would suggest to you that this animal is a little different and is the reason why we are making this request that I will put before you. This is a project that is already existing. We already have a stormwater plan but the stormwater plan we have now does not exactly address some of the changes.

With respect to the additions that we are going to make to the foot print of the building. All of the additions that are in the sales office area will be over existing sidewalk or something. The addition that is shown at the bottom of the screen, which is admittedly the largest addition, that one is going to be half over sidewalk and half over grass, approximately half and half. The addition to the left of that one is over existing sidewalk and under roof. The addition on the end, which is that little tiny corner addition, is over deck. The town considers that coverage but state stormwater does not so for them that would be new coverage.

The state stormwater regulations have a basic fundamental point that they get to and that is when you are required to obtain a stormwater permit. The reason for that is you cannot do any new or additional impervious development prior to obtaining a permit and doing the stormwater management necessary for it. If you are going into a site that is an open field you are going to move in and do all kinds of site clearing and site preparation. Normally we do that and we do not need a building permit therefore it is not a problem that we have not yet obtained a building

Kitty Hawk Town Council Minutes: October 6, 2014

Page 9

permit. You do not need state stormwater for it because you have not done any impervious development.

What we are going to ask you to do here is take a step beyond the normal and propose to you any construction, any new development we do inside the existing building footprint, which clearly does not require a new stormwater permit, clearly it does not. Actually any development that we do that does not increase lot coverage also does not require a stormwater permit because we are not doing anything that they are trying to protect.

What we are asking in this case is for you to say yes we can pull a building permit but cannot do any development that increases impermeable cover prior to obtaining a permit and implementing the permit. Quite frankly that is a subtle distinction that very often gets overlooked. People get their stormwater permit and they go to work and a lot of times they end up actually being ahead of the game because they have not implemented the plan. They have not put in the basins, they have not put in the swales and they get busy and pour a concrete slab or put in impermeable cover for a parking lot when in fact you cannot do that until you have your stormwater plan implemented so that runoff has a place to go.

Recognizing all of these things and the criteria we are asking you to, as I say, take a step and say let's condition this on no new impermeable cover prior to acquiring and implementing the stormwater permit. That would allow a building permit to be issued so they can start new construction. They have a lot of footings and stuff to do but they also have these additions and columns to support the roof and that sort of thing that really need to be done. That is our request for you and I will certainly address any questions you may have.

Perry: *I went out there and I'm glad I did now. On that lower part of the building I don't have a problem with the right side there the office space. That is all paved anyway or sidewalk and they are planning to do away with some trees and shrubbery between the parking lots. That new addition, if I understood what he was telling me today ... because he had a landscaper coming out to see how they could save trees in the area that you are saying you need a building permit for but you won't disturb until you get the stormwater permit.*

Calfee: *That is correct. That area is half over sidewalk half over existing vegetation and no we would not propose to do that because that would be new impervious coverage.*

Perry: *Would you have to come back to council or just go through planning to get it?*

Calfee: *No. What I am suggesting is that we have to get the approval from the state. We have to implement it and staff will be fully aware of what we are doing and how we do it. In fact an engineer would have to provide a certification to the state that this work has been completed prior to constructing this new impermeable coverage so there are actually some securities there that assure it will be done like we are saying it will be done. It is a far cry from what it was 20 years ago when this project started.*

Kitty Hawk Town Council Minutes: October 6, 2014

Page 10

Perry: I understand and I don't have a problem with it.

Klutz: I went out there today also and looked around. I think I know where that is there at the front. What you are asking for is the building permit to be issued without first getting the stormwater permit with the understanding that there will be no development that has impervious surface or anything until that stormwater permit is obtained. Is that what you are asking? We are not going to get in any trouble are we Steve?

Michael: No. You will need to change the wording to track exactly what you are saying and what Mr. Calfee has said. You will allow the building permits but there will not be any construction that will create impermeable surface until the stormwater plan has been approved and implemented and until he has the actual changes on the ground that are required for that permit.

Mr. Calfee provided council with suggested wording.

Councilwoman Klutz made a motion to grant approval of this site plan for the proposed expansion and renovations to the Sales and Recreation Center building at Barrier Island Station subject to the following conditions: 1) unapproved deck and parking improvements that encroach into the required buffer area must be removed or otherwise brought into compliance with the PCD buffer standards; 2) a building permit for new construction may be issued prior to issuance of a state stormwater permit for the work but work that increases net impermeable lot coverage shall not commence prior to the issuance and implementation of any state stormwater permit required for the work and applicants documentation of the implementation; 3) a lighting plan including any changes to the existing exterior lighting must be approved by the Planning and Inspections department prior to the issuance of a building permit; 4) an as-built survey for the subject property, height certification for the building and elevation certificate for the building must be submitted and approved prior to the issuance of a final certificate of occupancy. Councilman Garriss seconded the motion and it passed unanimously, 5-0.

b.) Site Plan Review: Barrier Island Station Fitness Center - Application for site plan approval to construct an approximately 600 square foot addition on the east side of the building, construct an approximately 500 square foot deck on the west side of the building, enclose additional area under the existing roof, and add new recreational amenities as part of a comprehensive renovation of the existing pavilion structure in the Planned Unit Development (PUD) section of the Barrier Island Station resort.

Heard: This building is located beyond the ones we were just talking about, further into the site. There is an existing walkway to this building from the recreation center area and is really oriented more toward the large outdoor pool that is on site. The walkway goes into the pavilion

and serves as a gathering spot for many of the guests.

The proposal is twofold. The first aspect is to add a small addition on the front of the building approximately 550 square feet. Just for context it is a little over 5000 square feet now so about a 10% addition. There is also a proposal to add 500 square feet of deck on the rear part of the building and then the remaining area under the roof would be enclosed. A physical addition to the front, for an enclosed addition, a deck on the rear and then the remaining half of the building that is not presently enclosed, would also be enclosed, so a net of approximately 3000 square feet of additional enclosed area between the addition and what is being enclosed under the roof.

In this corner of the property you can see the fitness center building. You can see the property line we were referring to with the other application for the PCD district and the recreation building is located over in this area. It can be accessed from outside and it can be accessed directly from inside the gate as well.

There are some changes to the proposed uses and they all fall under the same general categories that they were originally. There are restrooms, changing rooms, and other proposed uses such as a snack bar and spa/fitness facility are proposed. They are expanding on some of the amenities they are offering now but it seems to fall within that same realm of uses that has been permitted previously.

Something I want to point out on this that we did not need to get into on the other has to do with lot coverage. Barrier Island is a phased development. Many of those phases have developed but there are still a number of them left to go, all of which are residential in nature. This phase is about 1.4 acres in size. If we are looking at this as an individual phase and the standards for it you will note the lot coverage is actually 64.8% which would exceed the limitations in this district. Although it is divided into phases for development purposes it is a whole larger property and at the time of its initial approval the council reviewed the phases and looked at the overall impacts and build out. With the standards that are in place the development at build out would still be under 30% lot coverage as a whole.

The unique thing about parking here is that there is actually no parking associated with these amenities but there is a provision of 4 ADA accessible spaces located beyond the guard house inside the development. They are in close proximity to the pool area to provide access for people with mobility issues. There are no specifically dedicated spaces for this portion of the development and that is consistent with the original approval. The thought is that all of the facilities are solely and have always been solely for use of the guests. This is not an area that has been open to the public through membership or anything like that. The original approval had allowed these amenities without any parking under the presumption that it would all be for guests who would be in relatively close proximity and could either walk or bike there. For those who choose to drive there is the other parking area that we looked at in the previous project that is in relatively close proximity and has paved access over to this area.

I have talked about the impact of the buffer requirement that was in the PCD district for the other project. Curiously enough in the PUD, the residential side of the development, there is actually a buffer requirement of 50' in width along all the exterior boundaries but there is a provision that specifically waives that requirement for the internal property lines where the PCD and the PUD districts meet. What is being proposed by a text amendment is that a corresponding statement be put into the PCD district. What that means is there is not an issue on this property as far as having any structures or other improvements such as the paths that meander through there or sidewalks. That is not an issue on this property because there is not a requirement that they be set back or buffered from that internal property line. The buffer still applies to all of the adjoining neighborhoods, all adjoining property, but not to that internal line.

The planning board met on September 25th and after reviewing voted unanimously to recommend approval of this site plan for the expansion of the fitness center. The board came up with six recommended conditions for the council to consider. As with the other application the applicant provided some revisions in the plans that were given to council for review tonight and three of those items have already been addressed. There are only three remaining conditions that are recommended from the planning board and I suspect Mr. Calfee will be asking for a very similar comment on item one.

The board recommended documentation must be provided that the proposed improvements are in compliance with the state stormwater permit prior to the issuance of a building permit; a lighting plan, including any changes to the existing exterior lighting, must be approved by the Planning and Inspections Department prior to the issuance of a building permit; and an as-built survey for the subject property and an elevation certificate for the building must be submitted and approved prior to the issuance of a final certificate of occupancy. You will note that last one is a little different. We are not asking for a height certification on this project because they are not proposing to change the roof line at all whereas with the other project they were. Those are the recommendations and I will be glad to answer any questions the council might have.

Hearing no questions from council Mayor Perry invited Mr. Calfee to the lectern.

Calfee: *What we are proposing is a 550 square foot addition on the east side of the building. A good part of that is over sidewalk. We are proposing a deck on the west side and most of that deck is over existing sidewalk but part of it is not. If it is a wood deck it does not count for coverage for the state stormwater anyway but the difference on this project is that all of the planning I have introduced is to reduce the lot coverage of this phase. In our stormwater permits, even though we now have one combined permit for the total project which we accomplished with the state this past summer, the intent as I understand it, is to reduce the lot coverage because every square inch of conceivable deck around the pool was paved with concrete all the way to the retaining walls which were already against the wetlands. Now the thinking is we will cut back some of that with nice plantings around the perimeter which in fact will reduce the lot coverage for the total project. If it does then the state is okay. It really is*

Kitty Hawk Town Council Minutes: October 6, 2014
Page 13

simple but we need the same language that says we do not do any new impermeable coverage, any additional net coverage, prior to having the permit and implementing a permit.

Klutz: *Did I read the right one last time?*

Calfee: *There was a very slight nuance difference but the one you read actually applies to both of them.*

Councilwoman Klutz made a motion to grant approval of this site plan for the proposed expansion and renovations to the fitness center building at Barrier Island Station subject to the following conditions: 1) a building permit for new construction may be issued prior to the issuance of a state stormwater permit for the work but work that increases net impermeable lot coverage shall not commence prior to the issuance and implementation of any state stormwater permit required for the work and applicants documentation of the implementation; 2) a lighting plan, including any changes to the existing exterior lighting, must be approved by the Planning and Inspections Department prior to the issuance of a building permit; 3) an as-built survey for the subject property and elevation certificate for the building must be submitted and approved prior to the issuance of a final certificate of occupancy. MPT Bateman seconded and the motion passed unanimously, 5-0.

c.) Call for Public Hearing/Text Amendment: Application to amend Subsection 14-90(6)a of the Flood Damage Prevention Ordinance to allow alternative options for recreational vehicles to comply with flood hazard reduction standards. A public hearing is requested to be scheduled for the November 3, 2014 Town Council meeting.

Councilman Garriss made a motion to set a public hearing for the town council meeting on November 3, 2014 regarding the proposed text amendment to amend subsection 14-90(6)a of the Kitty Hawk Town Code as suggested to allow alternative options for recreational vehicles to comply with flood hazard reduction standards. Councilman Pruitt seconded. The motion passed unanimously, 5-0.

d.) Call for Public Hearing/Text Amendment: Application to amend Chapter 40, Article III of the Town Code to update standards for wireless communications facilities consistent with recent changes in state and federal laws. A public hearing is requested to be scheduled for the November 3, 2014 Town Council meeting.

Councilman Pruitt made a motion to set a public hearing for the town council meeting on November 3, 2014 regarding the proposed text amendment to update Chapter 40, Article III of the town code with revised standards for wireless communications facilities. The motion was seconded by Councilman Garriss and unanimously approved, 5-0.

e.) Call for Public Hearing/Text Amendment: Application to amend Subsection 42-419(3) of the Town Code by eliminating the requirement for a buffer area between adjoining PCD

and PUD zoning districts. A public hearing is requested to be scheduled for the November 3, 2014 Town Council meeting.

MPT Bateman made a motion to call for a public hearing for a text amendment application to amend subsection 42-419(3) of the town code by eliminating the requirement for a buffer area between adjoin PCD and PUD zoning districts. The public hearing is scheduled for the November 3, 2014 town council meeting. Councilman Garriss seconded the motion and it passed unanimously, 5-0.

10. NEW BUSINESS

a.) Possible Revision of Municipal Service District Map – On February 3, 2014 the town council discussed and adopted a map showing three districts for a special tax that can be applied to the Storm Damage Reduction Projects. Council may discuss revising the map and reduce the number of districts to two.

Perry: This has to do with the potential beach nourishment and basically what we are doing is proposing to consolidate down to two zones from four. In essence the commercial would be in a zone that would have a higher tax rate dedicated to beach nourishment and the residential would have a lesser tax rate. The idea is that the people who benefit the most would be in the commercial but everyone needs to share in the cost of this project.

Klutz: District A is both residential and commercial. You were talking about the west side 158 when you said commercial versus residential.

Stockton: As part of the legal requirements to establish Municipal Service Districts in the State of North Carolina, Kitty Hawk is required to prepare a map of the proposed MSD's and provide that information to all affected property owners along with information about the intent of the MSD's and proposed tax rates. Once approved the attached map of the proposed MSD's and the attached letter containing information about the intent of the MSD's projects and public hearing notification will be sent to all property owners in Kitty Hawk according to the schedule to be set by council. The information must be sent at least four weeks prior to the public hearing on the establishment of MSD's.

Perry: During the meetings I have attended on the plan that CP&E has given us, and talking with the other towns, I became aware that all the other places are down to two districts. It simplifies the situation for both us and the people that we are asking to be taxed. I asked the manager to bring this back to us and now I am asking, if you have no objections, to approve it. Are there any questions?

Pruitt: You referred to this whole district as commercial even though some of it is residential. It may be in the rental area but there are people that live there year 'round. Just to clarify.

Kitty Hawk Town Council Minutes: October 6, 2014

Page 15

Klutz: *Right. It might be rented but that is still considered residential property. I think the only difference, or where the commercial properties are distinguished, is on the west side of 158. The properties in District A, the higher tax district, are on the west side of 158 are commercial properties. All the residential properties on the west side of 158 are in District B. Isn't that correct Gary?*

Perry: *As far as I can tell I think that is right. I suppose if you go down to the barge landing or someplace like that you could say that is commercial property but to try to ... that is stretching it. I mean you are way back in the woods so we have to be realistic. This is the beach and these are the people that are benefitting most from the beach and the barge landing is ...*

Pruitt: *I just did not want everybody to think we were going to do all commercial. The way it first sounded ... we are trying to incorporate the commercial on the west side of the bypass primarily.*

Klutz: *Just on the immediate west side.*

Councilwoman Klutz made a motion to approve the new map. MPT Bateman seconded. Vote was unanimous, 5-0.

Perry: *Now let's talk about the proposed letter that will go out to property owners. It does not have dates and times that we need yet but are approving it so staff has something to work from. Does anyone have any comments?*

Klutz: *My first comment is that in the letter it talks about the reasons for pursuing this project. At several council meetings we discussed the reasons which included infrastructure, flooding between the highways and then oceanfront properties. I recommend using those reasons instead of the four in this letter. Just remain consistent with everything we have said up until this point.*

Perry: *I agree.*

Klutz: *The next thing I think should be added is at the end of the third paragraph: "If the Municipal Service Districts are approved, tax rates will be established for each district with collection beginning July 1, 2015 for a duration of five years. Tax revenue will pay for debt service on the loan required to fund Kitty Hawk's share of the project cost." The reason I think that should go in there is because there is no mention in the letter that these tax rates will only be in effect for five years in order to pay off that debt. When people are getting a letter that talks about raising their taxes in the double digits I think it would be soothing for them to know that it is not going to last forever.*

Perry: *The only thing I want to add is on the last page it reads you are invited to attend a public hearing to be held in this meeting room. Do you suppose we are going to have an overflow for the hearing the way we did when we first brought this up? Should we consider an alternate*

Kitty Hawk Town Council Minutes: October 6, 2014

Page 16

place? Put in the meeting will be in the Smith Meeting room or as determined by the manager. We had people that could not get in the room at the forum and that bothers me.

Klutz: *We will have to make a decision before the letter goes out right?*

Perry: *Not if we add something to the effect it will be in the Smith Meeting room or as determined by the manager.*

Klutz: *How would we notify the people coming from out of town?*

Perry: *We have all kinds of media outlets and we will know if we have an overflow crowd and decide in a timely fashion whether or not this place will hold it. I am throwing that out for your thoughts.*

Bateman: *It might help with the decision to understand that the last time I know of three or four people that were on the phone for four or five days prior to that meeting lobbying everyone to come out. They did a good job of getting the people out.*

Perry: *So you are saying we could probably expect an over flow?*

Bateman: *I think that group got what they wanted and I don't think there are going to be as many this time as it was then.*

Klutz: *I really believe that the people that came here from out of town for that previous meeting are only going to show up for this hearing if they get hit with the tax rate and they decide that is not what they wanted.*

Perry: *Steve if we send the letter as it is does it create a problem?*

Michael: *It might. I didn't bring the statutes with me on the MSD's.*

Perry: *Well all we are doing tonight is actually approving a draft for staff to work from. It shouldn't be a problem because we are not ready to send these out anyway.*

Michael: *Right. So that gives you a little time to try to decide to have it somewhere else and you may want to do that. You may have a lot of folks come just out of curiosity if nothing else.*

Perry: *Do I hear a motion to approve the draft letter with the changes that Em has brought forward?*

Councilman Garriss made a motion to approve the draft letter with the changes by Councilwoman Klutz and Councilman Pruitt seconded. The vote was unanimous, 5-0.

11. REPORTS OR GENERAL COMMENTS FROM TOWN MANAGER

a.) **Compliment to the Police Department** – Manager Stockton said the town received a compliment from Wendy Cooper about the helpfulness of Sergeant Brian Strickland. Ms. Cooper owns a cottage on Lindbergh Avenue and a construction company was using the property for parking while working down the road. Sgt. Strickland called the company and asked them not to park there anymore.

b.) **Storm Damage Reduction Update** – Manager Stockton reported on the progress of the storm damage reduction project with Coastal Planning and Engineering. They have completed 68.9% of the scope of work as of September 1st. The work represents the development of environmental documents, beach fill design analysis and data collection and analysis associated with the offshore sand search.

Mayor Perry noted there is another meeting on the 14th and hopefully there will be a better idea of options available to the town.

12. REPORTS OR GENERAL COMMENTS FROM TOWN ATTORNEY

Attorney Michael said the Winks matter is still pending. It was scheduled last Monday but had to be postponed again.

13. REPORTS OR GENERAL COMMENTS FROM TOWN COUNCIL

a.) **Overton Property Update** – Mayor Perry reported he talked with the lawyer dealing with the Overton property and he has one heir that still needs to be served and doesn't yet know whether that has occurred.

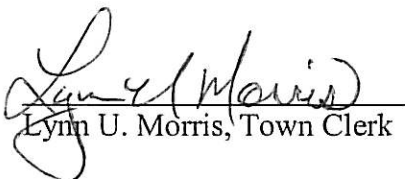
14. PUBLIC COMMENT

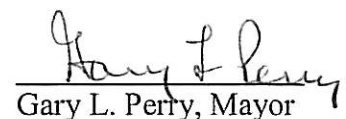
There were no public comments.

15. ADJOURN

MPT Bateman made a motion to adjourn. Councilman provided a second and it passed unanimously, 5-0. Time was 7:35 p.m.

These minutes were approved at the November 3, 2014 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor